

Exhibit D

From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Friday, January 12, 2024 6:24 PM
To: Springer, Brandon; Paul Farrell Jr.
Cc: Tara MacNeill; Boone, Brian; Harder, Bradley; Olga Vieira; Eric Lyttle; Chemerinsky, Kim; Jordan, Bill; Cooper, Jonathan; ESI-Opioids; PBM@listserv.motleyrice.com; Sage Vanden Heuvel; McGowan, Emily
Subject: Re: MDL2804: PEC initial discovery requests to PBMs

EXTERNAL SENDER – Proceed with caution

I agree that the issues of temporal and geographic scope regarding various species of discovery are not ripe for me to address. But I also urge the parties to meet and confer to discuss these issues as soon as possible, and work to come to as much agreement as possible. Also, the parties should be guided by my and the Court's earlier rulings on those topics.

-d

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This email sent from:
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216-831-0001 tel
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From: Springer, Brandon <Brandon.Springer@alston.com>
Sent: Friday, January 12, 2024 9:35 AM
To: Paul Farrell Jr. <Paul@FarrellFuller.com>; David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Cc: Tara MacNeill <taramacneill@quinnemanuel.com>; Boone, Brian <Brian.Boone@alston.com>; Harder, Bradley <Bradley.Harder@alston.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Cooper, Jonathan <jonathancooper@quinnemanuel.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>; PBM@listserv.motleyrice.com <PBM@listserv.motleyrice.com>; Sage Vanden Heuvel <sagevandenheuvel@quinnemanuel.com>; McGowan, Emily <Emily.McGowan@alston.com>
Subject: RE: MDL2804: PEC initial discovery requests to PBMs

Special Master Cohen,

We have twice informed the PEC that our deadline for responding to and objecting to the PEC's discovery requests is still more than two weeks away and that we will meet and confer with them once those responses and objections have been served.

It is improper for the PEC to seek the Court's or your involvement before the PBMs have responded to the PEC's discovery requests. The PEC is trying to circumvent the Federal Rules, but as the Sixth Circuit explained earlier in the

MDL, “[t]he rule of law applies in multidistrict litigation under 28 U.S.C. § 1407 just as it does in any individual case.” *In re Nat’l Prescription Opiate Litig.*, 956 F.3d 838, 841 (6th Cir. 2020).

We oppose any effort by the PEC to ask the Court or you to weigh in on discovery issues before our clients have even had a chance to respond (as is their right under the Federal Rules).

Thank you,

Brandon Springer
ALSTON & BIRD LLP
(704) 444-1007

From: Paul Farrell Jr. <Paul@FarrellFuller.com>
Sent: Friday, January 12, 2024 8:38 AM
To: David R. Cohen (David@SpecialMaster.Law) <David@SpecialMaster.Law>
Cc: Tara MacNeill <taramacneill@quinnemanuel.com>; Boone, Brian <Brian.Boone@alston.com>; Harder, Bradley <Bradley.Harder@alston.com>; Springer, Brandon <Brandon.Springer@alston.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Cooper, Jonathan <jonathancooper@quinnemanuel.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>; PBM@listserv.motleyrice.com; Sage Vanden Heuvel <sagevandenheuvel@quinnemanuel.com>; McGowan, Emily <Emily.McGowan@alston.com>
Subject: MDL2804: PEC initial discovery requests to PBMs

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Special Master Cohen,

During a transcribed status conference, Judge Polster recommended that we “use Special Master Cohen's help” regarding the scope of discovery. (Doc #: 5265) (Filed: 12/01/23) (pp. 15-16).

Plaintiffs served written discovery on 29 DEC 2023 and requested a meet and confer regarding *temporal limitations* and *geographic scope*. The PBMs respectfully declined to discuss until after the responses are due. Given the procedural history of the case and prior discovery rulings, we thought it would be beneficial to begin discussing foundational issues. We could use your help kickstarting this awkward middle school dance.

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“Facts are stubborn things.”

-John Adams
President of the United States.
Trial lawyer.

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